

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LORRA ESPEY,

Plaintiff,

v.

Civil Case No. 13-14859
Honorable Linda V. Parker

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**OPINION AND ORDER (1) ADOPTING MAGISTRATE JUDGE'S
FEBRUARY 18, 2015 REPORT AND RECOMMENDATION [ECF NO. 14]; (2)
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (ECF No.
8]; AND (3) GRANTING DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT [ECF NO. 13]**

On November 25, 2013, Plaintiff filed this lawsuit challenging Defendant's final decision partially denying her application for Disability and Disability Insurance Benefits under the Social Security Act.¹ On November 26, 2013, the matter was referred to Magistrate Judge Michael Hluchaniuk for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation ("R&R") on all

¹ The Commissioner found that Plaintiff was "disabled" within the meaning of the Social Security Act from July 24, 2010 through May 1, 2012; however, medical improvement occurred on the latter date that rendered Plaintiff capable thereafter of performing substantial gainful activity. Thus the Commissioner concluded that Plaintiff was not "disabled" as of May 2, 2012.

dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 3.) The parties subsequently filed cross-motions for summary judgment. (ECF Nos. 8, 13.)

On February 18, 2015, Magistrate Judge Hluchaniuk issued his R&R in which he recommends that this Court deny Plaintiff's motion, grant Defendant's motion, and affirm Defendant's decision finding Plaintiff not disabled under the Social Security Act. (ECF No. 14.) In the R&R, Magistrate Judge Hluchaniuk first finds that all of the arguments set forth in Plaintiff's motion "are wholly insufficient and undeveloped." (*Id.* at 20.) As has become the hallmark of the summary judgment motions filed by Plaintiff's counsel, "Plaintiff offers no basis whatsoever for the Court to conclude that the ALJ's decision is not supported by substantial evidence and offers no factual or legal basis for the Court to conclude that the ALJ committed reversible error of any sort." (*Id.*)

In any event, Magistrate Judge Hluchaniuk finds that the ALJ's residual functional capacity ("RFC") for Plaintiff is "well-supported by substantial evidence and that [P]laintiff's credible limitations were accommodated in the RFC." (*Id.*) Thus the ALJ's hypothetical question to the vocational expert was adequate. (*Id.* at 12.) Magistrate Judge Hluchaniuk further finds no error in the vocational expert's failure to specify DOT codes for the positions he identified Plaintiff could perform. (*Id.* at 22.)

Finding substantial evidence in the record to support the ALJ's decision, Magistrate Judge Hluchaniuk concludes by recommending that the Court affirm

Defendant's decision. (*Id.* at 22-23.) At the end of his R&R, Magistrate Judge Hluchaniuk advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. (*Id.* at 23-24.) He further specifically advises the parties that "[f]ailure to file specific objections constitutes a waiver of any further right to appeal." (*Id.* at 23.) Neither party filed objections to the R&R.

This Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Hluchaniuk. The Court therefore adopts the magistrate judge's February 18, 2015 Report and Recommendation and is affirming Defendant's decision denying Plaintiff social security benefits.

Accordingly,

IT IS ORDERED, that Plaintiff's motion for summary judgment (ECF No. 8) is **DENIED**;

IT IS FURTHER ORDERED, that Defendant's motion for summary judgment (ECF No. 13) is **GRANTED**.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: March 16, 2015

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, March 16, 2015, by electronic and/or U.S. First Class mail.

s/ Richard Loury
Case Manager